



# FAIRHAVEN PLANNING BOARD

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Fairhaven Planning Board *Minutes*  
Tuesday, August 24, 2021– 6:30pm

FAIRHAVEN,  
MASS.

## 1. GENERAL BUSINESS:

- a) Chair's Welcome and Media Notification: Chairman, Mr. Farrell opened the meeting at 6:35pm and advised the meeting was taking place via Zoom.
- b) Quorum: Present: John Farrell, Cathy Melanson, Jessica Fidalgo, Wayne Hayward, Jeff Lucas, David Braga and Geoff Haworth (arrived at 7:15p.m.) Absent: Rene Fleurent
- c) Minutes of August 10, 2021 draft to be reviewed: Cathy Melanson made a motion to accept the minutes of August 10, 2021 and was seconded by Jessica Fidalgo. The motion passed unanimously via roll call vote with Mr. Lucas abstaining as he was not in attendance.

### d) Planning Board Bills:

\$444.09 - Staples - June 2021 - Mr. Foley described office supplies that were purchased. Jeffrey Lucas made a motion to pay \$444.09 to Staples for office supplies and was seconded by Ms. Melanson. The motion passed unanimously via roll call vote.

\$106.15 - Staples - August 2021 - Mr. Foley described this was also for office supplies; for wireless speakers and black ink. Jeffrey Lucas made a motion to pay \$106.15 for Staples for office supplies and was seconded by Cathy Melanson. The motion passed unanimously via roll call vote. (6-0).

## 2. PUBLIC HEARINGS:

a) *Public Hearings* - None.

b) **DS 2021- 46 SNR: Bond Release & HOA:** Mr. Foley reviewed the proposed Subdivision bond wording that had to be included and advised Attorney Crotty has approved the wording.

Mr. Hayward asked whether the bond being \$640,000 was enough. Mr. Foley said he had sent an email to the DPW but did not receive a response. One of the developers, Josh Alves was present in the banquet room and stated the \$640,000 was for the subdivision including roads and utilities.

Mr. Hayward said a subdivision bond is one of the allowed methods, so he was okay with that. He just wanted to know if it was for enough to cover costs in case the developer walks away.

Mr. Lucas asked if they could get some independent review of what that cost represents. He said he didn't know if they would run into ledge which would incur unforeseen costs. He said he felt uncomfortable without some verification that the bond was correctly calculated for the subdivision. Mr. Lucas said he didn't think they should put it on the DPW to verify the amount. He feels they are doing a disservice to themselves and he's uncomfortable without having a definitive independent review of the bond before accepting it.

Mr. Alves stated it was just to cover the cost of the subdivision, not the cost of the homes. He reiterated it was for the cost of the road and build out the lots.

Mr. Lucas said he was aware that it was only for roadwork but unaware of how much that entails. Even if an estimate he would like someone to review to confirm the amount. He said he is just being cautious.

Mr. Hayward said in the past the Planning Board would see the breakdown of the cost and they have not seen that with this one.

Mr. Farrell asked if Mr. Foley was able to screen share those details. Mr. Foley said he would have to run to his office and send a quick email to everyone. Mr. Lucas said he wasn't comfortable receiving the email and then making a quick decision.

Mr. Hayward made a motion to move DS2021-46 SNR to September 14, 2021 and was seconded by Mr. Lucas. In a roll call vote, the motion passed unanimously. (6-0).

Mr. Foley will review with DPW and a Peer Review before the next meeting.

***b) DS 2019-02 Hiller & Timothy Subdivision***

Mr. Foley stated they have not heard anything new from this applicant. He said that the Town Attorney has not heard anything either. Mr. Foley will ask Town Council if he should reach out to the applicant directly.

Mr. Lucas made a motion to move DS 2019-02 Hiller & Timothy Subdivision to September 14, 2021 and was seconded by John Farrell. The motion passed with one opposed, Mr. Hayward. (5-1).

**3. TOWN PLANNER UPDATE:**

**a) Street Trees:** Mr. Foley stated in July he was upset that a lot of mature historic trees had been taken down by the Tree Warden without proper notice. He said approx. 60 street trees were taken down without his knowledge. He said that street trees law (MGL 87) said that the tree warden should hold a public hearing for each one. The Tree Warden said Eversource did it and there is nothing he, the Tree Warden, can do to stop them. According to Chapter 87 that is not true. The Tree Warden can modify or deny a hazard tree removal plan. But in any case, there was no plan, just a list that did not follow the required 90-day time limits and with no communication with any other department.

Mr. Foley stated they did not file the exemption correctly. He said the tree warden was supposed to review a plan and then not do any work done for ninety days, presumably to notify and communicate interested parties to confirm. He said the Tree Warden and arborist from the utility company cut down the trees. He said he has reached out to the Tree Warden directly. He said they should create a tree bylaw to strengthen the bylaw to protect the trees and ensure proper notification and review. He said he would like to create a tree bylaw to spell out the responsibilities as well as apply for a grant to do a comprehensive inventory and create a management plan. He reviewed what is involved in a tree bylaw with the members. Mr. Foley reviewed the consideration for local tree bylaw and the issues that it could clarify.

Mr. Foley reviewed how the public hearing would take place currently. He said he would like to include the Planning Board and Department be informed about the tree hearings.

Mr. Farrell asked how they are keeping records of the trees they are taking down.

Mr. Foley said that Eversource created a list of all the trees. He said there were sixty-two on the list that were taken down and only four were identified as dead and five or six that were 'dying.' He said there was no rationale

for cutting down the trees. The Tree Warden says they were dead or dying but there is no evidence left. Many of the very large stumps show no sign of rot. There is a process and the legal process was not followed. The amount of trees taken is unprecedented. The Tree Warden does not appear to be keeping records which is something we will need to address in the bylaw.

Mr. Farrell stated that there was a tree on his street that was taken down, as well as Mr. Lucas stated six to seven on Farmfield Street were taken away as well.

Mr. Farrell asked if the tree warden can identify why the trees were taken down. Mr. Foley will forward the list to the members.

Mr. Hayward stated he believes a town meeting may be coming up in the fall. He said he shared the sentiments of the town planner and mature trees shouldn't be removed without a process. He said he thinks they should protect the mature trees in town; and would hope the tree warden will work with the Planning Board and Planning Department to move forward with a process. Mr. Hayward said he has been looking for a tree mark for pruning as he is looking around at these trees. He sees stumps showing evidence he is cutting down trees but is not seeing and telltale cuts on branches that would show necessary pruning is being done. Mr. Hayward said that the tree warden needs to identify what streets are accepted and/or private ways. He said he is all for moving forward on this process.

Mr. Farrell asked about the fullness of September 14<sup>th</sup>'s agenda. Mr. Foley reviewed the potential agenda items. Mr. Farrell asked that a working session to work on a Tree Bylaw be added to the agenda.

Mr. Foley explained he would be applying to the Urban Forestry Program for a grant to do the inventory and management plan but that it is a 50/50 grant that he would be applying for and would need the Town to spend a significant amount of money. He thinks we could potentially use ARPA funds.

Mr. Farrell asked if there was any agreement with the Tree Warden that he was going to modify his behavior.

Mr. Foley stated he sent a letter to Eversource to cease and desist cutting down trees.

**b) Cluster Bylaw:** Subdivision Control a/o Special Permit

Mr. Foley reviewed a proposal to adopt a bylaw where buildings or lots may be clustered together with reduced lot area, frontage, setback and lot coverage requirements so that more land is preserved as open space. This would be for large lots, especially farms. Mr. Foley said a couple of farm owners have reached out to him about a cluster bylaw or to possibly rezone their property.

Ms. Melanson left the meeting at 7:17p.m.

Mr. Lucas stated this has been in discussion over the last twenty years and he's always been in favor of a cluster bylaw. He said it requires a more general discussion and reviewing the pros and cons of it.

Mr. Foley reviewed the grant received from SEC (Seaport Economic Council) used for a feasibility study at Union Wharf. He brought it to EDC for their review and comments. He would like to include a brief history of that area be in the report as well as what can be done down there. The first task would be assessment of demand/need for potential alternative uses. They would look at the potential of expansion of existing and/or complimentary uses and the potential for a service building similar to those in other ports. They would also look at other uses such as a restaurant, educational, recreational, institutional uses. The property is in a DPA (designated port area) so whatever they look at will have to be compatible with that.

Mr. Lucas shared his frustration on the 30x30 piece of land on Union Wharf that was given away for \$8,000. Mr. Foley stated that was voted at Town Meeting but from what he understands it may not be a done deal. He said he will try and get more information on what exactly the trade was and what needs to be done. Mr. Lucas asked Mr. Foley to try and stop that process from happening. He said it is a valuable piece of property to the Town.

Mr. Hayward stated the MacLean's Seafood was the building in that area and from what he understood there was a small 10x10 area that was owned by another party. He said he believed that to get rid of that 10x10 property there had to be a transfer in order to solidify the footprint so the town could do something with that property.

Mr. Foley reviewed the Site Readiness Grant and explained the Town can ask for 10 phase one environmental assessments. The consultant can then do a deeper dive on 3-4 more properties. He reviewed the properties that would be assessed for development for phase one environmental and stated it takes approximately a month for review. He said the first property to be done would be the 194 Bridge Street property where there is now talk that both public safety and the transfer facility could possibly go to that property.

Mr. Lucas asked if some of these lots in the Redevelopment Target Area are developed already and he was not sure how the environmental analysis will work.

Mr. Foley said they are trying to create more development, where big box stores or large paved areas could potentially be mixed use with higher density. Mr. Foley explained his vision is to focus future development in the underutilized shopping plazas in Town.

Mr. Hayward stated he wanted to raise his objections to this proposal and he will be talking to defeat this proposal at town meeting if it allows thousands of units of residential in our commercial area. He said the environmental study is fine. He stated he was readily available to discuss this tonight, but that he doesn't think that a small town community like Fairhaven should be looking at this type of development, for more than 300 acres.

Mr. Hayward referred to "smart growth" areas in other towns in proposed "T" (transit) stations. Mr. Hayward expressed his frustration and the districts that Mr. Foley is proposing is predominately commercial districts and should remain that way. Fairhaven is a blue collar Town and needs these shopping plazas.

Mr. Foley said the 40R was not 300 acres and that the Industrial District would not be included in the 40R. He said they would not allow 6,000 units and they would determine how many. He said he was roughly thinking another 400 units created. He got the message and agrees that Fairhaven is a town and wants to remain a town. He said they would require design guidelines. It would not be by right unless the developer met all of the standards and guidelines which would essentially be creating the conditions before the proposal. Mr. Hayward stated he was pro development but not pro this. Mr. Foley stated he hopes they could continue discussing so they could address his concerns. He said he would work on an image library to be clearer and convey what the options are.

Mr. Hayward stated that Fairhaven is not a rich community and the stores like "Dollar Store" need to exist for our community. He said those plazas are what our community needs. He said he is not against affordable housing but needs to do it properly and targeted.

Mr. Foley referred to our own Staples is twice the size of most and most Staples are twice the size they need to be. We don't want to get rid of Staples but allow them to exist in a smaller footprint and make room for more commercial development with residential above. He understands Mr. Hayward's points and concerns and will try to address them as we move forward.

Mr. Foley stated that a few department heads have been reviewing mapping tools for the departments and the public. They have had a presentation by MapGeo and CAI/Axis for the online mapping tool.

Mr. Hayward stated they have been working on a 2017 zoning map they are reviewing. Mr. Foley stated he is working on that as well. Mr. Foley said the Building Department online permitting, Permit Eyes, has a zoning map that has been updated to show the Benoit Square Mixed Use map.

Mr. Foley stated he received an ANR today for a property on the corner of Adams and Spring Street. He said it was the Congregation of Jesus and Mary and doing an ANR to be reviewed at the next meeting. 73-77 Adams Street. They are going to create two lots. He said that will be at the next meeting.

Mr. Foley reviewed upcoming projects. He also reviewed upcoming meetings, September 14, 2021 and September 28, 2021. October 12 and October 26, 2021. He also reviewed upcoming Special Permit Reviews.

Mr. Foley stated that Plymouth & Brockton bus lines may be interested in creating a Transportation Terminal at the Drive-in property as a link in their Woods Hole to T. F. Green line and create a park and ride for something like 600 parking spaces. He suggested to them that like a lot for this market and that they should talk to Dattco on Sycamore Street as well.

Mr. Farrell opened up to the board for any information. Ms. Fidalgo asked if she should not vote on the Adams Street ANR as she is an immediate neighbor. Mr. Foley said he will check on for her, but he said the Planning Board does not actually vote on an ANR, they simply "endorse" that the proposal meets the standards of an ANR and does not require Definitive Subdivision review. Mr. Hayward stated it is always a good gesture to abstain if you're within 300' of a lot.

Mr. Farrell asked about Rogers School Re-use Committee. Mr. Foley stated there was a walk-through done today. The revamped Rogers Committee will be meeting in September. He said volunteers had cleaned the building and placed leftover items, particularly a lot of old school desks, have been moved to the gym in the addition for a tag sale.

Mr. Lucas made a motion to adjourn and was seconded by David Braga. The motion passed unanimously via roll call vote, 6-0.

Meeting was adjourned at 8:26p.m.

Respectively,  
Patricia A. Pacella